THE HON'BLE SRI JUSTICE GODA RAGHURAM.

WRIT PETITON NO.14409 OF 2005

DATE: 12-12-2005

Between:

J.Subbaiah, s/o J.Sunkaiah,

Age: 37 years, Occ: Constable CISF,

R/o: 21-4-63, Shanthinagar,

F.C.I., Post: Godavarikhani,

Karimnagar District

… Petitioner

A n d

The Inspector General,

Central Industrial Security Force (CISF),

South Zone, Head Quarters,

Rajaji Bhavan, Basant Nagar, Chennai and

3 others.

…. Respondents

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ORAL ORDER:

The petitioner, a Constable, employed with the Central Industrial Security Force, was transferred by a proceedings dated 25-03-2005 to Kundamkulam,

Tamilnadu. He assailed the same in W.P.No.7718 of 2005. The said writ petition was disposed of by this Court by the Judgment dated 07-04-2005, declining to interfere with the order of transfer particularly as the petitioner was already relieved from his earlier posting from Godavarikhani, but permitting him to make representation to the respondents puttingforth his grievance as well as objections to the transfer. On such representation being made, the respondents were directed to consider the same and take a decision thereon within the stipulated time. The petitioner made a representation, which was rejected by the impugned order dated 23-06-2005. In para 2 of the order impugned herein, it is recorded that as per the existing guidelines on transfer, CISF personnel are to be continued at a particular station or unit for a period of three years; have to serve the first six years in a out of home zone consisting of a group of individual states; after completion of the first tenure as such, they become eligible for posting in the home zone for a period of twelve years and thereafter would again have to serve in a out of home zone for six years and in the remaining service are eligible to be posted to their home zone, subject to availability of vacancies. It is further recorded that the tenures prescribed in the guidelines could be increased or curtailed on administrative grounds, operational needs or in public interest. Having considered the several aspects projected by the petitioner seeking continuation in the home zone, which was part of his second tenure, the impugned order recorded that there were complaints against the petitioner that he was lending money on interest at Godavarikhani and therefore in public interest and on administrative grounds, he has been transferred out of SCCL Bellampalli to NPCIL, Kundamkulam, Tamilnadu. The other circumstances pleaded by the petitioner regarding his children's education and his wife's employment were not considered, as they were not found administratively compelling to overwhelm the administrative requirement of transferring the petitioner out of Bellampalli, in view of the complaints against him.

The learned counsel for the petitioner would strenuously contend that his transfer is contrary to the guidelines. Alternatively, it is contended that if there were complaints against him, the only recourse open to the respondents is to initiate disciplinary proceedings against him but he could not been transferred.

None of the above contentions commend acceptance by this Court.

Administrative guidelines contouring the discretion of the employer are not enforceable instruments on the basis of which a transfer, essentially an incident of service, could be interdicted. The guidelines are meant for internal guidance as broad policy instruments. They are not intended to and cannot have a compelling character as to justify the issuance of a Mandamus on the basis of such guidelines. Insofar as the second contention is concerned, it must be held that the employer has not only the power and authority to initiate disciplinary proceedings should a misconduct be found and a misconduct of a gravity that commends disciplinary proceedings by the employer, but the availability of such a discretion does not mean that the employer is disabled from exercising other available administrative measures like transferring an employee out of the theatre (of mischief).

There are no merits. Writ petition is dismissed. Interim order dated 05-07-2005 stands dissolved. No order as to costs.

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12-12-2005.

Lrkm.